

TITLE XI. THE COURT AND CLERK

Rule 77. Sessions of the Court

(a) Court Always Open. The court shall be deemed always open and in continuous session for transacting judicial business on all business days throughout the year. Emergency matters may be presented to and heard by the court at any time.

(b) Trials and Proceedings--Orders in Chambers. All trials upon the merits shall be conducted in open court and so far as convenient in a regular courtroom. All other acts or proceedings may be done or conducted by a judge in chambers with or without the attendance of the clerk or other court officials.

(c) Place of Trials or Hearings.

(1) In New York City. The judge to whom an action is assigned may designate the date of any trial or hearing to be held in, or continued to, New York City.

(2) Other Than New York City. The chief judge may, as authorized by 28 U.S.C. §§ 253(b) and 256(a), designate the place and date of any trial or hearing to be held at, or continued to, any place other than New York City within the jurisdiction of the United States.

(3) Foreign Countries. The chief judge may, as authorized by 28 U.S.C. § 256(b), authorize a judge to preside at any evidentiary hearing in a foreign country.

(d) Photography, Tape Recording and Broadcasting. The taking of photographs, or the use of recording devices in the courtroom or its environs, or radio or television broadcasting from the courtroom or its environs, in connection with judicial proceedings is prohibited. A judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.

Environs as used in this rule, shall include: (1) the entire United States Court of International Trade Courthouse at One Federal Plaza, New York, New York; and (2) any place within the jurisdiction of the United States where a judge may preside at a trial or hearing pursuant to 28 U.S.C. § 256(a).

(e) Assignment and Reassignment of Actions.

(1) Assignment to Single Judge. All actions shall be assigned by the chief judge to a single judge, except as prescribed in paragraph (2) of this subdivision (d).

(2) Assignment to Three-Judge Panel. An action may be assigned by the chief judge to a three-judge panel either upon motion, or on upon the chief judge's own initiative, when the chief judge finds that the action raises an issue of the constitutionality of an Act of Congress, a proclamation of the President, or an Executive order; or has broad or significant implications in the administration or interpretation of the law.

(3) Time of Assignment. An action shall be assigned by the chief judge at any time upon the chief judge's own initiative or upon motion for good cause shown.

(4) Reassignment. An action may be reassigned by the chief judge upon the death, resignation, retirement, illness or disqualification of the judge to whom it was assigned, or upon other special circumstances warranting reassignment.

(5) Inability of a Judge to Proceed. If a trial or hearing has been commenced and the judge is unable to proceed, any other judge may proceed with it upon certifying familiarity with the record and determining that the proceedings in the action may be completed without prejudice to the parties. In a hearing or trial without a jury, the successor judge shall at the request of a party recall any witness whose testimony is material and disputed and who is available to testify again without undue

burden. The successor judge may also recall any other witness.

(f) Judge and Court--Defined. The word "judge" as used in these rules means the single judge or three-judge panel to whom an action is assigned or a matter is referred. The word "court" as used in these rules means, unless the context of a particular rule clearly indicates otherwise, the single judge or three-judge panel to whom an action is assigned or a matter is referred.

PRACTICE COMMENT: To implement the authority conferred upon the chief judge by 28 U.S.C. §§ 253(b) and 256(a), and for the convenience of parties, there is set out in the instructions for Form 6, in the Appendix of Forms, a list of tentative dockets and the procedures to be followed in connection with trials or oral arguments of dispositive motions at places other than New York City.

(As amended Apr. 28, 1987, eff. June 1, 1987; July 28, 1988, eff. Nov. 1, 1988; Sept. 25, 1992, eff. Jan. 1, 1993.)